8602, Japan. Kanto 79 refers to a variety of wheat, seeds of which were deposited under accession number 00023081 on March 29, 1977 at the National Institute of Agrobiological Sciences, National Institute of Agrobiological Resources, 2-1-2 Kannon-dai, Tsukuba, Ibaraki 305-8602, Japan. Chousen 30 refers to a variety of wheat, seeds of which were deposited under accession number 00023732 on February 25, 1969 at the National Institute of Agrobiological Sciences, National Institute of Agrobiological Resources, 2-1-2 Kannon-dai, Tsukuba, Ibaraki 305-8602, Japan. Chousen 57 refers to a variety of wheat, seeds of which were deposited under accession number 00023724 on February 25, 1969 at the National Institute of Agrobiological Sciences, National Institute of Agrobiological Resources, 2-1-2 Kannon-dai, Tsukuba, Ibaraki 305-8602, Japan.--

REMARKS

Status

Claims 1-5 are pending and under consideration in this application, no claims being added, amended or canceled herein.

Claims 1-5 were rejected under 35 U.S.C. §112, first paragraph as allegedly not enabled. Applicant respectfully traverses this rejection.

35 U.S.C. §112, first paragraph, enablement:

Claims 1-5 were rejected under 35 U.S.C. §112, first paragraph as allegedly not enabled. In particular, the Examiner states that the invention is not enabled because Applicant has not deposited seeds of the invention or seeds of the parent strains of the invention as required under the terms of the Budapest Treaty or under conditions which satisfy the requirements of 37 C.F.R. §§ 1.801-1.809. Applicant respectfully disagrees.

Applicant provides a certificate executed by Naoki Katura, President of the National Institute of Agrobiological Sciences, a division of the National Institute of Agrobiological Resources certifying that the seeds of the parental varieties of the invention, Turkey 116, Kanto 79, Chousen 30, and Chousen 57 were deposited in the genebank f the National Institute of Agr biological Sciences. The respective accession numbers and deposit dates are 00025594, deposited December 20, 1985; 00023081, deposited March 29, 1977; 00023732, deposited February Fcbruary 25, 1969; and 00023724, deposited February 25, 1969. The certificate further certifies that the seeds are preserved at the facility, the seeds were tested for viability at the time of deposit and were viable, the seeds will be preserved at least until 2030 A.D., and the seeds are publicly available. The

accompanying brochure describes the mission of the National Institute of Agrobiological Resources and the preservation procedures for maintaining the seeds. Applicants have amended the specification herewith to provide the accession number, date of accession, and address of the depository for each of the parental varieties as advised by the Examiner and as required under 37 C.F.R. § 1.809. Applicants respectfully request that the 35 U.S.C. § 112, first paragraph rejection be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

Peter Seperack
Reg. No. 47,932

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200
Fax: (415) 576-0300
PKS:kad
SF 1238204 v1

VERSION WITH MARKINGS TO SHOW CHANGES TO THE SPECIFICATION

IN THE SPECIFICATION:

Page 8, line 16 please add the following new paragraph:

Turkey 116 refers to a variety of wheat, seeds of which were deposited under accession number 00025594 on December 20, 1985 at the National Institute of Agrobiological Sciences, National Institute of Agrobiological Resources, 2-1-2 Kannon-dai, Tsukuba, Ibaraki 305-8602, Japan. Kanto 79 refers to a variety of wheat, seeds of which were deposited under accession number 00023081 on March 29, 1977 at the National Institute of Agrobiological Sciences, National Institute of Agrobiological Resources, 2-1-2 Kannon-dai, Tsukuba, Ibaraki 305-8602, Japan. Chousen 30 refers to a variety of wheat, seeds of which were deposited under accession number 00023732 on February 25, 1969 at the National Institute of Agrobiological Sciences, National Institute of Agrobiological Resources, 2-1-2 Kannon-dai, Tsukuba, Ibaraki 305-8602, Japan. Chousen 57 refers to a variety of wheat, seeds of which were deposited under accession number 00023724 on February 25, 1969 at the National Institute of Agrobiological Sciences, National Institute of Agrobiological Resources, 2-1-2 Kannon-dai, Tsukuba, Ibaraki 305-8602, Japan.

CLAIMS PENDING AFTER AMENDMENT

1. Wheat starch obtained from endosperm of a seed of wheat which is modified to lack starch granule protein-1 (SGP-1), wherein the wheat starch has an apparent amylose content of about 35% or more.

2. The wheat starch of claim 1, wherein the apparent amylose content is from about 37% to about 40%.

3. The wheat starch of claim 1, wherein the wheat is a hexaploid wheat which lacks SGP-A1, SGP-B1 and SGP-D1.

4. The wheat starch of claim 3, wherein the hexaploid wheat is obtained by crossing a first wheat lacking a first protein selected from the group consisting of SGP-A1, SGP-B1 and SGP-D1, with a second wheat lacking a second protein which differs from the first protein and is selected from the group consisting of SGP-A1, SGP-B1 and SGP-D1, followed by further crossing the cross of the first wheat and the second wheat with a third wheat lacking a third protein which differs from the first and second proteins and is selected from the group consisting of SGP-A1, SGP-B1 and SGP-D1.

5. The wheat starch of claim 3, wherein the hexaploid wheat is obtained by crossing (i) Chousen 30 or Chousen 57, (ii) Turkey 116, and (iii) Kanto 79 in an arbitrary order.